

VS Infra Design doo

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Datum: 10.07.2020 god.
Beograd-Novi Beograd

Design Services Agreement
for
Section II of Road Design
of
Modernization and Reconstruction of Hungarian-Serbian
Railway Connection in the Territory of Serbia for Section Novi
Sad –Subotica- State Border(Kelebija)

between

China Railway Design Corporation Serbia Ogranak Beograd

and

Consortium of
VS Infra Design Doo Beograd, ENCODE doo Beograd
and Beoexpert Design doo Beograd

Contract No.: WW[2020]匈塞 SZ005 号

July 2020

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DESIGN SERVICES AGREEMENT

This Agreement is made the:

(10) day of the month of 07-2020 [month], [year]

between:

China Railway Design Corporation Serbia Ogranak Beograd

whose registered office is situated at:

Koste Racina 16b Belgrade, Serbia

hereinafter called the "Client" of the one part

AND:

The Consortium of

VS Infra Design Doo Beograd

whose registered office is situated at:

Jurija Gagarina 249, Novi Beograd, Serbia

ENCODE Doo Beograd

whose registered office is situated at:

Durmitorska 4a, Belgrade, Serbia

Beoexpert Design Doo Beograd

whose registered office is situated at:

Ruzveltova 23, Belgrade, Serbia

WHEREAS

- a) The Commercial Contract on Modernization and Reconstruction of Hungarian-Serbian Railway Connection in the Territory of the Republic of Serbia, for Section Novi Sad –Subotica- State Border (Kelebija)(hereinafter referred to as the Railway Project) was signed by the Joint Venture of China Railway International Corporation and China Communications Construction Company Limited, (hereinafter referred to as the CRIC-CCCC JV) the Government of the Republic of Serbia and Serbia Railway Infrastructure Company (hereinafter referred to as the Employer).
- b) Design Contract of the Railway Project was signed by the CRIC-CCCC JV and the consortium of China Railway Design Corporation (the Client) and SAOBRAČAJNI INSTITUT CIP.
- c) In order to execute the Design Contract of the project, the Client has requested the Consultant to provide certain consulting services as defined in the General Conditions and Appendix 1 – Scope of the Services of Agreement attached to this Agreement (hereinafter called the “Services”);
- d) the Consultant, having presented to the Client that he has the required professional skills and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Agreement.

NOW THEREFORE the Parties hereto hereby agree as follows:

1. That the Client hereby agrees to pay the Consultant in consideration of the performance of the Services such amounts as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Agreement. The total amount of the Agreement is **56,000,000.00RSD (Fifty-six Million Serbian Dinars)**, which is fixed and inclusive of VAT and all other taxes by prevailing Serbian law.
2. The following documents attached hereto shall be deemed to form an integral part of this Agreement:
 - a) The General Conditions of Agreement;

b) The Particular Conditions of Agreement;

c) The following Appendices:

Appendix 1: Scope of Services;

Appendix 2: Personnel, Equipment, Facilities and Services of Others to be Provided by the Client;

Appendix 3: Remuneration and Payment;

Appendix 4: Programme;

Appendix 5 –Confidentiality Agreement;

Appendix 6: Rules for Adjudication;

Appendix 7: Format of Performance Security

3. In the event of any ambiguity or conflict between the Agreement documents listed above, the Agreement shall be construed in the following order of priority:

a) Agreement;

b) Particular Conditions;

c) Appendices; and

d) General Conditions.

4. The mutual rights and obligations of the Client and the Consultants shall be as set forth in the Agreement, in particular:

a) The Consultant shall carry out the Services in accordance with the provisions of the Agreement; and

b) the Client shall make payments to the Consultant in accordance with the provisions of the Agreement.



For and on behalf of **China Railway Design Corporation Serbia Ogranak Beograd**

Geng Xin

General Manager

[signature] _____

[date] _____



For and on behalf of **VS Infra Design Doo Beograd**

Vidosav Stevanović

Director

[signature] _____

[date] _____



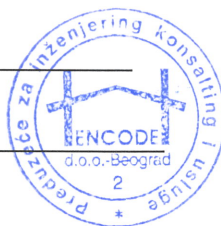
For and on behalf of **ENCODE Doo Beograd**

Damir Peco

Director

[signature] _____

[date] _____



For and on behalf of **Beoexpert Design Doo Beograd**

Janko Radovanović

Director

[signature] _____

[date] _____



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GENERAL CONDITIONS

1. General Provisions

1.1. Definitions

The following words and expressions shall have the meanings assigned to them except where the context otherwise requires:

- 1.1.1. **"Agreement"** means the Design Services Agreement together with the Client/Consultant Model Services Agreement (General Conditions and Particular Conditions), Appendix 1 [Scope of Service], Appendix 2 [Personnel, Equipment, Facilities and Services of Others to be Provided by the Client], Appendix 3 [Remuneration and Payment] and Appendix 4 [Programme], Appendix 5 [Confidentiality Agreement], Appendix 6 [Rules for Adjudication], Appendix 7 [Format of Performance Security] and any letters of offer and acceptance attached to any of the above.
- 1.1.2. **"Background Intellectual Property"** means, in respect of each Party, the Intellectual Property owned by or otherwise in the possession of that Party at the Commencement Date.
- 1.1.3. **"Client"** means the Party named in the Design Services Agreement and legal successors to the Client and permitted assignees.
- 1.1.4. **"Client's Representative"** means the person referred to in the Particular Conditions, or appointed from time to time by the Client, and communicated by Notice to the Consultant to be its representative for the administration of the Agreement.
- 1.1.5. **"Commencement Date"** means the date identified in the Particular Conditions; where no date is identified then the Commencement Date shall be 14 days after the Effective Date.
- 1.1.6. **"Confidential Information"** means all information specifically identified by the disclosing Party as confidential at the time of disclosure, or information that a reasonable person would consider from the nature of the said information and circumstances to be confidential, including without limitation confidential or proprietary information, trade secrets, data, documents, communications, plans, know-how, formulas, designs, calculations, test results, specimens, drawings, studies, specifications, surveys, photographs, software, processes, programmes, reports, maps, models, agreements, ideas, methods, discoveries, inventions, patents, concepts, research, development, and business and financial information.
- 1.1.7. **"Consultant"** means the professional firm or individual named in the Design Services Agreement and legal successors to the Consultant and permitted assignees.
- 1.1.8. **"Consultant's Representative"** means the person referred to in the Particular Conditions or appointed from time to time by the Consultant and communicated by Notice to the Client



to be its representative for the administration of the Agreement.

- 1.1.9. **"Country"** means the country named in the Particular Conditions or, where no country is mentioned, the country where the Project site, or the main project site as the case may be, is located.
- 1.1.10. **"day"** means a calendar day.
- 1.1.11. **"Effective Date"** means the date on which the Agreement comes into force and effect pursuant to Clause 4.1 [Agreement Effective].
- 1.1.12. **"Exceptional Costs"** means the costs, not otherwise compensated under the Agreement, arising out of any necessary work, cost, expense or delay incurred by the Consultant which is additional to the Services (or Variations) and which is necessarily and unavoidably performed under the Agreement and in each case identified as such in the Agreement.
- 1.1.13. **"Exceptional Event"** means an event or circumstance which is (a) beyond a Party's control; (b) which such Party could not reasonably have provided against before entering into the Agreement; (c) which having arisen, such Party could not reasonably have avoided or overcome; and (d) which is not substantially attributable to the other Party. An Exceptional Event may include, but is not limited to, events or circumstances of the kind listed below, subject to (a) to (d) above:
- (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies;
 - (ii) rebellion, terrorism, revolution, insurrection, military or usurped power or civil war;
 - (iii) riot, commotion, disorder, strike or lockout by persons other than the Consultant's personnel and other employees of the Consultant and Consultant's sub-consultants;
 - (iv) munitions of war, explosive materials, ionising radiation or contamination by radio-activity except as may be attributable to the Consultant's actions;
 - (v) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.
- 1.1.14. **"Foreground Intellectual Property"** means all Intellectual Property created as a result of the Services performed by the Consultant.
- 1.1.15. **"Design Services Agreement"** means the document entitled Design Services Agreement which forms part of the Agreement.
- 1.1.16. **"FIDIC"** means the Fédération Internationale des Ingénieurs-Conseils, the International Federation of Consulting Engineers.
- 1.1.17. **"Intellectual Property"** means all intellectual property rights including, without limitation, any patents, patent application, trademarks, trade secrets, registered designs, registered design application, copyrights, design rights, moral rights, process, formula, specification,



drawing, including rights in computer software and databases howsoever arising in any part of the world.

- 1.1.18. **"Local Currency"** means the currency of the Country and "Foreign Currency" means any other currency.
- 1.1.19. **"Notice"** means a written communication identified as a Notice and issued in accordance with the provisions of Clause 1.3 [Notices and other Communications].
- 1.1.20. **"Party"** and "Parties" means the Client and/or the Consultant as the context requires.
- 1.1.21. **"Programme"** shall have the meaning given to it in Clause 4.3 [Programme].
- 1.1.22. **"Project"** means the project named in the Particular Conditions for which the Services are to be provided.
- 1.1.23. **"Services"** means the services defined in Appendix 1 [Scope of Services] to be performed by the Consultant in accordance with the Agreement which includes any Variations to the Services instructed or arising in accordance with the Agreement.
- 1.1.24. **"Time for Completion"** means the time for completing the Services as stated in the Particular Conditions, or as may be amended in accordance with the Agreement, calculated from the Commencement Date.
- 1.1.25. **"Variation"** or **"Variation to the Services"** means any change to the Services instructed or approved as a Variation under Clause 5.1 [Variations].
- 1.1.26. **"Variation Notice"** means a written communication identified as a Variation Notice and issued in accordance with the provisions of Clause 1.3 [Notices and other Communications].
- 1.1.27. **"Works Contract"** means a contract for the performance of permanent and temporary works (if any) to be carried out by a contractor appointed by the Client for the achievement of the Project.
- 1.1.28. **"year"** means a calendar year.
- 1.1.29. **"Taking-over Certificate"** means the Taking-over certificate issued by the Employer for the Modernization and Reconstruction of Hungarian-Serbian Railway Connection in the Territory of Serbia for Section Novi Sad –Subotica- State Border(Kelebija).
- 1.1.30. **"Whole Project"** means the project of Modernization and Reconstruction of Hungarian-Serbian Railway Connection in the Territory of Serbia for Section Novi Sad –Subotica- State Border(Kelebija).

1.2. Interpretation



- 1.2.1. Words indicating the singular include the plural, and vice versa where the context requires.
- 1.2.2. Words indicating one gender include all genders.
- 1.2.3. Provisions including the word "agree", "agreed" or "agreement" require the agreement to be recorded in writing and signed by both Parties.
- 1.2.4. "shall" means that the Party or person referred to has the obligation under the Agreement to perform the duty referred to.
- 1.2.5. "may" means that the Party or person referred to has the choice of whether to act or not in the matter referred to.
- 1.2.6. "written" or "in writing" means handwritten, type-written, printed or electronically made and resulting in a permanent uneditable record.
- 1.2.7. any reference to "price", "rates", "costs", "expenses", "damages", and the like shall be a reference to the value of such item net of any applicable taxes unless specified otherwise.

1.3. Notices and other Communications

- 1.3.1. Wherever the Agreement provides for the giving or issuing of a Notice, a Variation Notice or other form of communication including without limitation approvals, consents, instructions, and decisions, then such Notice, Variation Notice or communication shall be:
 - (a) where it is a Notice or Variation Notice, identified as such with reference to the Clause or Sub-Clause under which it is issued;
 - (b) where it is another form of communication, identified as such with reference to the Clause or Sub-Clause under which it is issued where appropriate;
 - (c) in writing and delivered by hand (against receipt), sent by mail or courier, or transmitted by any form of agreed system of electronic transmission stated in the Particular Conditions; and
 - (d) delivered, sent or transmitted to the address for the recipient's communications as stated in the Particular Conditions. However:
 - (i) if the recipient gives Notice of another address, Notices and other forms of communication shall thereafter be delivered accordingly; and
 - (ii) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

Notices and other form of communications shall not be unreasonably withheld or delayed.

1.4. Law and Language



- 1.4.1. The Agreement shall be governed by the law stated in the Particular Conditions or, if no governing law is stated in the Particular Conditions, by the law of the Country.
- 1.4.2. If any part of the Agreement is written in more than one language then the ruling language shall be that stated in the Particular Conditions.
- 1.4.3. The language for all communications shall be the ruling language stated in the Particular Conditions or where no language is stated then all communications shall be in the language in which the Agreement (or most of it) is written.

1.5.Changes in Legislation

- 1.5.1. If after the date of the Consultant's offer/proposal in relation to the Agreement the scope, extent, nature or type of Services is affected by any change to national (or state) legislation, any statute, statutory instrument, order, regulation, bylaw, code or other legislation having application to the Services then such change to the Services shall be treated as a Variation to the Services under Clause 5.1 [Variations].
- 1.5.2. If after the date of the Consultant's offer/proposal in relation to the Agreement any change to national (or state) legislation, any statute, statutory instrument, order, regulation, bylaw, code or other legislation in any country in which the Services are required by the Client, causes the Consultant to incur Exceptional Costs, then the agreed remuneration shall be adjusted in accordance with Sub-Clause 7.1.2 [Payment to the Consultant], and the Time for Completion amended in accordance with Clause 4.4 [Delays]. As soon as reasonably practicable the Consultant shall inform the Client by issue of a Notice of the occurrence of the Exceptional Costs.

1.6.Assignments and Sub-Contracts

- 1.6.1. The Consultant shall not assign the benefit of the Agreement without the prior written consent of the Client. Such consent shall not be unreasonably withheld or delayed.
- 1.6.2. The Consultant shall not assign obligations under the Agreement without the written consent of the Client.
- 1.6.3. The Consultant shall not sub-contract performance of all or part the Services without the written consent of the Client. The consent of the Client shall not be required where the appointment of a sub-consultant for the performance of part of the Services is included in the Consultant's offer/proposal, if any, as incorporated into the Agreement, or is otherwise anticipated in any of the documents constituting the Agreement.
- 1.6.4. The Client's consent to any sub-contract arrangement shall not relieve the Consultant of any of the Consultant's obligations under the Agreement. The Consultant shall remain responsible and liable to the Client for the acts, omissions and defaults of the sub-consultant in relation to the Agreement as if they were acts, omissions and defaults of the Consultant.

1.7. Intellectual Property

- 1.7.1. All Intellectual Property held in any medium, whether electronic or otherwise, created by the Consultant during the performance of the Services (Foreground Intellectual Property) shall be vested in the Client. The Consultant shall not use and copy the Foreground Intellectual Property for any purpose without the consent by the Client.
- 1.7.2. All Background Intellectual Property shall remain the property of the original Employer. The Consultant hereby grants to the Client, or agrees to procure the grant to the Client of an unrestricted royalty-free license to use and copy the Consultant's Background Intellectual Property to the extent reasonably required to enable the Client to make use of the Services or the Project. The Client hereby grants to the Consultant an unrestricted royalty-free license to use and copy the Client's Background Intellectual Property provided to the Consultant to the extent reasonably required to enable the Consultant to provide the Services.
- 1.7.3. The Consultant shall ensure (except in respect of any of the Client's Background Intellectual Property) that the Foreground Intellectual Property and the Consultant's Background Intellectual Property, to the extent incorporated into the Services, will not infringe any Intellectual Property or other rights of any third party.
- 1.7.4. The Consultant shall not be liable for the use by any person of the Consultant's Background Intellectual Property or the Client's Foreground Intellectual Property for any purpose other than the purpose for which it was originally intended.

1.8. Confidentiality

- 1.8.1. Except with the prior written consent of the other Party, neither Party shall disclose or cause or permit their employees, professional advisers, agents or sub-consultants to disclose to third parties any Confidential Information.
- 1.8.2. The restrictions on use and disclosure set forth in Sub-Clause 1.8.1 shall not apply to any information:
 - (a) which at the date of its disclosure is public knowledge or which subsequently becomes public knowledge other than by any act or failure to act on the part of the receiving Party or persons for whom the receiving Party has assumed responsibility under the Agreement;
 - (b) which the receiving Party can establish by written proof was already in its possession at the time of disclosure by the disclosing Party and was not acquired directly or indirectly from the disclosing Party;
 - (c) which at any time after the Commencement Date has been acquired from any third party who did not acquire such information directly or indirectly from the disclosing Party or any of the disclosing Party's employees or professional advisers;



- (d) which by proof in writing has been independently developed by the receiving Party without the use of Confidential Information; or
- (e) which is required to be disclosed by law or order of a court of competent jurisdiction or government, department, agency or other public authority.

1.8.3. The obligations set forth in Sub-Clause 1.8.1 shall expire two (2) years after completion of the Services or the termination of the Agreement (whichever is the earlier) unless stated otherwise in the Particular Conditions.

1.9. Publication

1.9.1. Subject to Clause 1.8 [Confidentiality] and unless otherwise specified in the Particular Conditions, the Consultant, either alone or jointly with others, may publish material relating to the Services. Publication shall be subject to approval of the Client if it is within two (2) years of completion of the Services or termination of the Agreement (whichever is the earlier).

1.9.2. The Consultant may use material and information relating to the Services and the Project for commercial tendering purposes.

1.10. Anti-Corruption

1.10.1. In the performance of their obligations under the Agreement, the Consultant and the Client, their agents and employees shall comply with all applicable laws, rules, regulations, and orders of any applicable jurisdictions, including without limitation those relating to corruption and bribery. The Parties shall also comply with the standards provided in the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

The Consultant hereby represents, warrants and covenants that:

- a) it shall not participate, directly or indirectly in bribery, extortion, fraud, deception, collusion, cartels, abuse of power, embezzlement, trading in influence, money laundering, use of insider information, the possession of illegally obtained information or any other criminal activity; and



- b) it shall neither receive nor offer, pay or promise to pay either directly or indirectly, anything of value to a "public official" (as defined below) in connection with any business opportunities which are the subject of the Agreement. Furthermore, the Consultant shall immediately give Notice to the Client with full particulars in the event that the Consultant receives a request from any public official requesting illicit payments.

1.10.2. A "public official" is:

- (a) any official or employee of any government agency or government-owned or controlled enterprise;
- (b) any person performing a public function;
- (c) any official or employee of a public international organisation including without limitation donor or funding agencies or the Client;
- (d) any candidate for political office; or
- (e) any political party or an official of a political party.

1.10.3. In conjunction with the requirements of this Clause 1.10 the Consultant shall at the Client's request demonstrate that it adheres to a documented code of conduct in respect to the prevention of corruption and bribery. As a minimum the Consultant shall comply with the FIDIC Code of Ethics and the FIDIC Integrity Management System available at www.fidic.org.

1.11. Relationship of Parties

1.11.1. Nothing contained in the Agreement shall be construed as creating a partnership, agency or joint venture between the Parties.

1.11.2. Where either Party consists of a joint venture or consortium then members of such joint venture or consortium shall be jointly and severally liable under the Agreement.

1.12. Agreement Amendment

1.12.1. The Agreement can only be amended with the written agreement of the Parties.

1.13. Severability

1.13.1. If any term or provision under the Agreement is held to be illegal or unenforceable in whole or in part, then such term or provision shall be disregarded without affecting the enforceability of the remainder of the Agreement. Where either Party cannot rely on any term or provision, the Parties shall negotiate in good faith for an alternative term or provision with similar contractual effect for both Parties.



1.14. Non Waiver

1.14.1. No failure or delay by either Party in exercising any of its rights under the Agreement shall operate as a waiver of such rights. Any waiver given by either Party in connection with the Agreement is binding only if it is served as a Notice and then strictly in accordance with the terms of the Notice.

1.15. Priority of Documents

1.15.1. The documents forming the Agreement are to be taken as mutually explanatory of one another. If there is a conflict between these documents, then the documents shall be interpreted and construed in accordance with the order of precedence of documents given in Clause 3 of the Design Service Agreement. If the conflict cannot be so resolved then the Client shall issue an instruction or Variation to the Services under Clause 5.1 [Variations] as the case may require, in order to resolve the conflict.

1.16. Good Faith

1.16.1. In all dealings under the Agreement the Client and the Consultant shall act in good faith and in a spirit of mutual trust.

2. The Client

2.1. Information

2.1.1. In order not to delay the Consultant in the performance of the Services, the Client shall within a reasonable time and with due regard to the Programme, provide to the Consultant, free of cost, all information, and any further information reasonably requested by the Consultant, which may pertain to the Services and which the Client is able to obtain.

2.1.2. The Client makes no representations or warranties as to the quality, accuracy and sufficiency of all the information provided by the Client. The Client expressly acknowledges the inherent risk of error in the acquisition, processing and interpretation of such information and therefore the Consultant shall use reasonable endeavours to review all significant information provided to it by the Client within a reasonable time of receipt. To the extent achievable using the standard of care in Sub-Clause 3.3.1 [Standard of Care], the Consultant shall review such information with a view to ensuring that such information does not contain any manifest error, omission or ambiguity and shall give Notice to the Client promptly of any adverse findings.

2.1.3. In the event of any error, omission, or ambiguity (for the avoidance of doubt, including a manifest error, omission or ambiguity) in the information provided to the Consultant then the Client shall rectify such matter by Notice and where necessary shall issue a Variation to the Services in accordance with Clause 5.1 [Variations] as the case may require.

2.2. Decisions



- 2.2.1. On all matters properly referred to the Client in writing by the Consultant, the Client shall give its decision, approval, consent, instruction, or Variation, as the case may be, in writing within a reasonable time and with regard the Programme so as not to delay the Services.

2.3.Assistance

- 2.3.1. In the Country and in respect of the Consultant, its personnel and dependants, as well as sub-consultants, if any, as the case may be, the Client shall do all in its power to assist in:

- (a) providing unobstructed access wherever it is required for the Services; and
- (b) providing access to other organisations for collection of information which is to be obtained by the Consultant.

2.4.Client's Financial Arrangements

- 2.4.1. The Client shall submit to the Consultant, within twenty-eight (28) days of receiving any request from the Consultant, reasonable evidence that financial arrangements have been made and are being maintained which will enable the Client to make timely payments under Appendix 3 [Remuneration and Payment] or any other provision of the Agreement.
- 2.4.2. If the Client intends to make any material change to its financial arrangements, the Client shall give Notice to the Consultant with supporting particulars. In the event that the Consultant, acting reasonably, is not satisfied with the proposed change and/or supporting particulars submitted by the Client, then the Consultant shall be entitled to suspend the Services pursuant to Sub-Clause 6.1.2(c) [Suspension of Services].

2.5.Supply of Client's Equipment and Facilities

- 2.5.1. The Client shall make the equipment and facilities described in Appendix 2 [Personnel, Equipment, Facilities, and Services of Others to be Provided by the Client] available to the Consultant for the purpose of the Services, with due regard to the Programme and free of cost.

2.6.Supply of Client's Personnel

- 2.6.1. In consultation with the Consultant, the Client shall at its own cost arrange for the selection and provision of suitably qualified personnel in its employment to the Consultant in accordance with the requirements, if any, in Appendix 2 [Personnel, Equipment, Facilities and Services of Others to be Provided by the Client]. In connection with the provision of the Services and subject to the requirements of the applicable law(s), such personnel may take instructions from the Consultant.
- 2.6.2. In the event that the Client cannot supply the Client's personnel for which it is responsible of the performance of the Client's personnel supplied to the Consultant is not, in the reasonable opinion of the Consultant, adequate to discharge the services as assigned to them, then the Consultant shall arrange for an alternative supply of personnel at the



Client's cost and the Client shall issue a Variation to the Services in accordance with Clause 5.1 [Variations].

2.7. Client's Representative

- 2.7.1. The Client shall notify the Consultant of the extent of powers and authority delegated to the Client's Representative.

2.8. Services of Others

- 2.8.1. The Client shall arrange, at its own cost, for the provision of services from others as described in Appendix 2 [Personnel, Equipment, Facilities, and Services of Others to be Provided by the Client], and the Consultant shall co-operate with the suppliers of such services but shall not be responsible for them or their performance. Where the provisions of services by others is necessary for the proper performance of the Services then the Client shall ensure that such provision of services by others is given in sufficient time so as to allow the Consultant to proceed in accordance with the Programme.
- 2.8.2. Unless otherwise stated in Appendix 1 [Scope of Services], the responsibility for interface management between the Services and services provided by other remains with the Client.

3. The Consultant

3.1. Scope of Services

- 3.1.1. The Consultant shall perform the Services as stated in Appendix 1 [Scope of Services].
- 3.1.2. The Consultant shall perform the Services in accordance with the Programme as may be amended from time to time in accordance with the Agreement.
- 3.1.3. The Consultant declares that as at the date of signatures of the Agreement there are no circumstances or matters that may give rise to a conflict of interest in the performance of its obligations under the Agreement. The Consultant shall inform the Client immediately if it becomes aware of any such circumstances or matters. If a conflict of interest arises then the Parties shall agree, in good faith, on measures to manage such conflict.

3.2. Function and Purpose of Services

- 3.2.1. Where appropriate, the Client shall describe the function and purpose of the Services and state the same explicitly in Appendix 1 [Scope of Services].]

3.3. Standard of Care

- 3.3.1. In the performance of the Services the Consultant shall exercise the reasonable skill, care and diligence to be expected from a consultant experienced in the provision of such services for projects of similar size, nature and complexity.
- 3.3.2. To the extent achievable using the standard of care in Sub-Clause 3.3.1, and without



extending the obligation of the Consultant beyond that required under Sub-Clause 3.3.1, the Consultant shall perform the Services with a view to satisfying any function and purpose that may be described in Appendix 1 [Scope of Services].

- 3.3.3. The Consultant shall comply with all regulations, statutes, ordinances and other forms of standards, codes of practice and legislation applicable to the Services and the Agreement.

3.4. Client's Property

- 3.4.1. Anything supplied by or paid for by the Client for the use of the Consultant shall be the property of the Client and, where practicable, shall be so marked. The Consultant shall make reasonable endeavours to safeguard and protect such property of the Client until completion of the Services and/or return of such property to the Client.

3.5. Consultant's Personnel

- 3.5.1. The key personnel who are proposed by the Consultant to work in the Country shall be subject to acceptance by the Client with regard to their qualifications, skill and experience. Such acceptance by the Client shall not be unreasonably withheld. Personnel, if any, included in the Consultant's offer/proposal included as part of the Agreement shall be deemed to be accepted by the Client on entering into the Agreement. In that case, The Consultant represents and warrants that all of its personnel are fully capable, qualified, skilled and experienced in their respective professions, and will perform their duties as required under this agreement in a timely and efficient manner.

Where the Client concludes that any Consultant's personnel does not possess the qualifications, skill and experience necessary for the performance of the Service or that the behaviour of any Consultant's personnel is disruptive or undesirable in any manner, the Client may so notify the Consultant in writing and the Consultant shall take any corrective measures required by the Client including the removal and replacement of such Consultant's personnel.

- 3.5.2. The Consultant shall be responsible to ensure its personnel be available at all times to provide continuous performance of the Services. Any overtime worked by the Consultant's personnel during the performance of the Service shall be at no extra charge to the Client.
- 3.5.3. The Consultant shall indemnify and hold the Client harmless from any disputes which may arise between the Consultant and its personnel in connection with performance of the Service.

3.6. Consultant's Representative

- 3.6.1. The Consultant shall notify the Client of the extent of powers and authority delegated to the Consultant's Representative.
- 3.6.2. If required by the Client, the Consultant shall designate an individual to liaise with the



Client's Representative in the Country.

3.7.Changes in Consultant's Personnel

- 3.7.1. If it is necessary for any reason to replace any of the personnel provided by the Consultant, the Consultant shall arrange for replacement by a person(s) of suitable qualification and experience in the provision of the Services as soon as reasonably possible.
- 3.7.2. The cost of such replacement shall be borne by the Consultant except where the replacement is requested by the Client, and in such case:
- (a) the request by the Client shall be made by Notice stating the reasons for it; such reasons shall relate to the provision of the Services and shall be reasonable and not vexatious; and
 - (b) the Client shall bear the cost of replacement unless misconduct or inability to perform satisfactorily in accordance with Sub-Clause 3.3.1 [Standard of Care] is the reason for the replacement of the relevant personnel by the Consultant.

3.8.Safety and Security of Consultant's Personnel

- 3.8.1. If in the reasonable opinion of the Consultant the health, safety or security of its personnel whilst in the Country is compromised by an Exceptional Event then the Consultant shall be entitled to suspend all or part of the Services in accordance with Sub-Clause 6.1.2(b) [Suspension of Services] and remove such personnel from the Country until such time as the Exceptional Event has ceased.

3.9.Representations and Warranties

The Consultant represents and warrants that:

- 3.9.1. It is a company duly organised and validly existing under the laws of the Republic of Serbia;
- 3.9.2. It is authorised to enter into this Agreement and has received all necessary approvals to do so and that it has, and shall continue to have, during the term of this Agreement, all necessary licenses, permits, consents and authorisations to perform the obligations under the Agreement;
- 3.9.3. This Agreement has been duly authorised and executed by the Consultant and constitutes valid and legally binding obligations of the Consultant, enforceable in accordance with their terms; and
- 3.9.4. Compliance with the terms of this Agreement shall not result in any violation of (i) any of Consultant's articles of association, (ii) any provision contained in any agreement or instrument to which the Consultant is a party or by which the Consultant or its assets are bound or (iii) or any statute, law, rule, regulation, judgement, decree or order applicable to



the Consultant.

4. Commencement and Completion

4.1. Agreement Effective

- 4.1.1. The Agreement shall be effective from the date of the latest signature necessary to complete the formal Agreement (the "Effective Date").

4.2. Commencement and Completion of Services

- 4.2.1. The Consultant shall commence the performance of the Services as soon as is reasonably practicable after the Commencement Date. The Consultant shall complete the whole of the Services within the Time for Completion.

4.3. Programme

- 4.3.1. Within fourteen (14) days of the Commencement Date the Consultant shall submit its Programme which shall include as a minimum:

- (a) the order and timing in which the Consultant intends to carry out the Services in order to complete the Services within the Time for Completion;
- (b) any key dates stipulated in Appendix 4 [Programme] or elsewhere in the Agreement for the delivery of any part of the Services to the Client;
- (c) the key dates when decisions, consents, approvals or information from the Client or third parties is required to be given to the Consultant;
- (d) any other requirements stated in Appendix 4 [Programme].

The Consultant shall keep the Programme under review and shall amend the same as and when necessary to comply with the Agreement.

- 4.3.2. Unless the Client, within fourteen (14) days of receiving the Programme, gives Notice to the Consultant stating the extent to which it does not comply with the Agreement, the Consultant shall proceed in accordance with the Programme, subject to its other obligations under the Agreement.
- 4.3.3. The Parties shall promptly give Notice to each other of any specific, actual or probable future events or circumstances which may adversely affect or delay the Services or lead to an increase in the cost of the Services.
- 4.3.4. The Consultant shall ensure that its personnel does not undertake any other services for any other company or person that would adversely effect the completion of the Services in accordance with the Programme.



4.4.Delays

- 4.4.1. The Consultant shall be entitled to an extension of the Time for Completion if and to the extent that completion of the Service is or will be delayed by any of the following causes:
- a) a Variation to the Service;
 - b) any delay, impediment or prevention caused by or attributable to the Client, or the Client's other consultants, contractors, or other third parties;
 - c) an Exceptional Event; or
 - d) any other event or circumstance giving an entitlement to extension of the Time for completion under the Agreement.
- 4.4.2. Any extension of the Time for Completion shall have due regard to the Programme and any constraints therein.
- 4.4.3. Where any circumstance referred to in Sub-Clause 4.4.1 causes the Consultant to incur Exceptional Cost, then the agreed remuneration shall be adjusted in accordance with Sub-Clause 7.1.2 [Payment to the Consultant]. As soon as reasonably practicable the Consultant shall inform the Client of the occurrence of the Exceptional Costs by issue of a Notice.

4.5.Rate of Progress of Services

- 4.5.1. If, for any reason that does not entitle the Consultant to an extension of the Time for Completion, the rate of progress of the Services is, in the reasonable opinion of the Client, insufficient to ensure completion of the Services within the Time for Completion, then the Client may give Notice to that effect to the Consultant. Upon receipt of such Notice the Consultant shall revise the Programme and shall issue a Notice to the Client describing the measures the Consultant intends to put in place in order to complete the Services in accordance with the Time for Completion.

4.6.Exceptional Event

- 4.6.1. If a Party is prevented from performing any of its obligations under the Agreement by, or due to, and Exceptional Event then it shall give a Notice to the other Party providing a description of the Exceptional Event together with an assessment of its effects on the Party's ability to comply with its obligations under the Agreement. The Notice shall be given within fourteen (14) days from when the Party becomes aware, or should have become aware, of the event or circumstance constituting an Exceptional Event.

The Party having given notice, shall be excused from performance of such obligations for so long as the effects of the Exceptional Event prevent such performance.

- 4.6.2. Where an Exceptional Event gives rise to an unavoidable change in the scope of Services



then the Client shall issue a Variation to the Services in accordance with Clause 5.1 [Variations]. Where an Exceptional Event gives rise to a delay in the completion of the Services then the Consultant shall be entitled to an extension of the Time for Completion in accordance with Clause 4.4 [Delays]

- 4.6.3. Notwithstanding any other provision of this Clauses 4.6, the obligations of either Party to make payments to the other Party under the Agreements shall not be excused by an Exceptional Event.

5. Variation to Services

5.1. Variation

- 5.1.1. A Variation to the Services may be initiated by the Client by issue of a Variation Notice at any time prior to completion of the Services. The Client may request the Consultant to submit a proposal in respect of a proposed Variation. If the proposal is accepted by the Client then the Variation shall be confirmed by the Client by issue of a Variation Notice. Any such Variation shall not substantially change the extent or nature of the Services.

- 5.1.2. A Variation to the Services may be issued in respect of any:

- (a) Amendment to Appendix 1 [Scope of Services] or to Appendix 2 [Personnel, Equipment, Facilities and Services of Others to be Provided by the Client];
- (b) omission of part of the Services but only where such omitted services are no longer required by the Client;
- (c) changes in the specified sequence or timing of the performance of the Services;
- (d) changes in the method of implementation of the Services;
- (e) provision of the Agreement requiring the issue of a Variation; or
- (f) proposal submitted by the Consultant (at the Client's request or otherwise) and accepted in writing by the Client.

- 5.1.3. The Consultant shall give Notice to the Client as soon as reasonably practicable where the Consultant considers that any instruction or direction from the Client or any other circumstance constitutes a Variation to the Services. The Consultant shall include in the Notice details of the estimated impact upon the Programme and cost of the Services for such matters. Within fourteen (14) days of receipt of the Notice the Client shall either issue a Variation Notice, or cancel the instruction or direction, or state by issue of a further Notice why the Client considers the instruction, direction or circumstance does not constitute a Variation to the Services. In such case the Consultant shall comply with and be bound by such further Notice unless the Consultant refers the matter as a dispute under Clause 10 [Disputes and Arbitration] within seven (7) days of receipt of such further Notice.



5.1.4. Unless the Consultant promptly gives Notice to the Client (with supporting evidence) that:

- (a) it does not possess the relevant skills or resources to carry out the Variation, or
- (b) the Consultant considers that the Variation will substantially change the extent or nature of the Services,

the Consultant shall be bound by each Variation. The Consultant shall not otherwise make any changes to the Services

5.2. Agreement of Variation Value and Impact

5.2.1. The Client and the Consultant shall agree the value of any Variation, or its method of calculation, including its impact (if any) upon other parts of the Services, the Programme and the Time for Completion.

5.2.2. The value of any Variation shall be determined in accordance with or based upon the rates and/or prices in Appendix 3 [Remuneration and Payment]. Where the rates and/or prices are not applicable to the Variation then new rates shall be agreed by the Parties.

5.2.3. The value of the Variation and its impact on the Programme shall be agreed and confirmed in writing by the Client to the Consultant. Pursuant to such agreement the Client shall issue an instruction to the Consultant to commence work on the Variation.

5.2.4. Where agreement under Sub-Clause 5.2.3 is not reached within fourteen (14) days of receipt by the Consultant of the Variation Notice or it is not practicable to establish and agree between the Parties all the effects of the Variation prior to the Consultant commencing work on the Variation then the Client may by Notice instruct the Consultant to commence work on the Variation and the Consultant shall comply with such instruction. The Consultant shall be compensated on a time-spent basis at the rates and prices stated in Appendix 3 [Remuneration and Payment] or if no rates and prices are stated then at reasonable rates and prices until such time as agreement is reached in all the effects of the Variation.

6. Suspension of Service and Termination Agreement

6.1. Suspension of Service

6.1.1. The Client may suspend all or part of the Services at its sole discretion and for any reason by giving twenty-eight (28) days' Notice to the Consultant.

6.1.2. The Consultant may suspend all or part of the Services in the following circumstances;

- a) When the Consultant has not received payment of an invoice or a part of an invoice, as the case maybe, by the due date for payment of such invoice and the Client has not issued a valid Notice in accordance with Clause 7.5 [Disputed Invoices] stating the reasons for non-payment of the invoice or part thereof, subject to the Consultant giving

seven (7) days' Notice to the Client.

- b) Where an Exceptional Event arises, including that contemplated under Clause 3.8 [Safety and Security of Consultant's Personnel]. Notice shall be given to the Client as soon as reasonably practicable. The Consultant shall take reasonable endeavours to avoid or minimise such suspension of all or part of the Services.
- c) Failure by the Client to satisfy the requirements of Clause 2.4 [Client's Financial Arrangements], subject to the Consultant giving seven (7) days' notice to the Client.

6.2. Resumption of Suspended Service

- 6.2.1. When the Services have been suspended under Sub-Clauses 6.1.1 [Suspension of Services] the Consultant shall resume the Services or part thereof, as the case may be, within twenty-eight (28) days' of receipt of Notice from the Client instructing the Consultant to resume the Services or part thereof.
- 6.2.2. Where the Services have been suspended under Sub-Clause 6.1.2 [Suspension of Services] the Consultant shall resume the Services or part thereof, as the case may be, as soon as reasonably practicable after the matters giving rise to the suspension have ceased.

6.3. Effects of Suspension of the Services

- 6.3.1. The Consultant shall be paid for Services performed in accordance with the Agreement up to the date of suspension of the Services or part thereof, as the case may be.
- 6.3.2. During the period of suspension the Consultant shall not perform the Services or part thereof as the case may be, but shall ensure, so far as is reasonably practicable, the security, maintenance and custody of the Services so as to prevent spoilage or loss.
- 6.3.3. If during the suspension and resumption of Services or part thereof the Consultant incurs Exceptional Cost, then:
 - (a) the agreed remuneration shall be adjusted in accordance with Sub-Clause 7.1.2 [Payment to the Consultant];
 - (b) the Time for Completion shall be amended in accordance with Clause 4.4 [Delays] to reflect the effect of the suspension on the Programme;
 - (c) as soon as reasonably practicable the Consultant shall inform the Client, by issue of a Notice, of the occurrence of these Exceptional Costs.
- 6.3.4. The Consultant shall take reasonable measures to mitigate the effects of the suspension of the Services or part thereof.

6.4. Termination of Agreement



6.4.1. Termination by the Client

- (a) If the Consultant without good reason is in breach of a material term or condition of the Agreement, the Client may give Notice to the Consultant outlining the breach and the remedy required under the Agreement. If the Consultant has not proceeded to remedy the breach within twenty-eight (28) days after the issue of the Notice then the Client may terminate the Agreement upon giving fourteen (14) days' Notice to the Consultant.
- (b) Notwithstanding the notice periods in Sub-Clause 6.4.1(a), if the Consultant becomes bankrupt or insolvent, goes into liquidation has a receiving or administration order made against it, compounds with its creditors, or carries on business under a receiver, trustee or manager for the benefit of its creditors, or if any act is done or event occurs which (under applicable laws) has a similar effect to any of these acts or events, the Client may in so far as the applicable laws permit terminate the Agreement with immediate effect upon service of an appropriate Notice.
- (c) Notwithstanding the Notice periods in Sub-Clause 6.4.1(a) if the Consultant is in breach of Clause 1.10 [Anti-Corruption]. The Client may terminate the Agreement with immediate effect upon service of an appropriate Notice.
- (d) At its sole discretion upon giving the Consultant fifty-six (56) days' Notice provided always that the Client shall not be entitled to use this provision in order to obtain the Services from others, or in order to perform the Services by itself.
- (e) Where an Exceptional Event has led to a suspension of the Services for more than one hundred and sixty-eight (168) days the Client may terminate the Agreement upon giving fourteen (14) days' Notice to the Consultant.

6.4.2. Termination by the Consultant

- 7. If the Services have been suspended under Sub-Clause 6.1.1 [Suspension of Services] for more than one hundred and sixty-eight (168) days, the Consultant may terminate the Agreement upon giving fourteen (14) days' Notice to the Client.
- 8. If the Services have been suspended under Sub-Clause 6.1.2(c) [Suspension of Services] for more than forty-two (42) days the Consultant may terminate the Agreement upon giving fourteen (14) days' Notice to the Client.
- 9. If the Client becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against it, compounds with its creditors, or carries on business under a receiver, trustee or manager for the benefit of its creditors, or if any act is done or event occurs which (under applicable laws) has a similar effect to any of these act or events, the Consultant may in so far as the applicable laws permit terminate the Agreement with immediate effect upon service of an appropriate Notice.
- 10. If the Client is in breach of Clause 1.10 [Anti-Corruption] the Consultant may terminate



the Agreement with immediate effect upon service of an appropriate Notice.

11. If the Services have been suspended under Sub-Clause 6.1.2(b) [Suspension of Services] for more than one hundred and sixty-eight (168) days, the Consultant may terminate the Agreement upon giving fourteen (14) days' Notice to the Client.

6.4.3. Termination in Convenience

- (a) The Client may, at its own discretion and without giving any justification to the Consultant, by delivering prior written notice, terminate the Agreement without cause or request discontinuance of the Service, at any time. The termination shall be effective on the date as specified in such notification. Only the Service which on the date of termination have already been completed will not suffer from the effects of termination without cause or discontinuance.
- (b) The Consultant shall not terminate the Agreement without cause or discontinue in whole or in part the performance of the Service.

6.5 Effects of Termination

- 6.5.1 The Consultant shall be paid for Services performed in accordance with the Agreement up to date of termination of the Agreement.
- 6.5.2 If the Agreement is terminated in accordance with Sub-Clause 6.4.1(a) or (b) or (c) [Termination of Agreement] the Client shall, without prejudice to any other rights the Client may have under the Agreement, be entitled to:
 - (a) take over from the Consultant all documents, information, calculations and other deliverables, whether in electronic format or otherwise, pertaining to the Services performed up to the date of termination, necessary to enable the Client to complete the Service either by itself or with the assistance of another consultant (all document in electronic format shall be editable);
 - (b) claim compensation for reasonable costs directly incurred as a consequence of the termination, including but not limited to additional cost incurred in arranging for the Services to be completed by another consultant;
 - (c) withhold payments due to the Consultant until all the costs incurred by the Client under Sub-Clause 6.5.2(b) above have been established and all documents, information, calculations and other deliverables necessary to enable the Client to complete the Services have been received. The Client shall act expeditiously and without delay in establishing its own costs under Sub-Clause 6.5.2(b).

The Client shall take all reasonable steps to mitigate such cost. The Client's entitlement under this Sub-Clause 6.5.2 shall be limited to those cost that are reasonably foreseeable at the time of signature of the agreement.



6.5.3 If the Agreement is terminated in accordance with Sub-Clause 6.4.1(d) or (e) or Sub-Clause 6.4.2 [Termination of Agreement] and the Consultant incurs Exceptional Cost, then, without prejudice to any other rights the Consultant may have under the Agreement, the agreed remuneration shall be adjusted in accordance with Sub-Clause 7.1.2 [Payment to the Consultant]. The Consultant shall inform the Client as soon as reasonably practicable by issue of a Notice of the occurrence of the Exceptional Costs.

6.5.4 Where the Agreement is terminated under Sub-Clause 6.4.1(d) or Sub-Clause 6.4.2(a) to (d) [Termination of Agreement] then the Consultant shall be entitled to be paid the loss of profit that would otherwise have been earned on the Services not performed due to termination.

6.6 Rights and Liabilities of the Parties

6.6.1 Termination of the Agreement shall not prejudice or affect the accrued rights of claims and liabilities of the Parties.

7 Payment

7.1 Payment to the Consultant

7.1.1 The Client shall pay the Consultant for the Services (including Variations to the Services) in accordance with the details stated in Appendix 3 (Remuneration and Payment)

7.1.2 Unless otherwise agreed in writing, the Client shall pay the Consultant in respect of Exceptional Cost:

(a) for the extra time spent by the Consultant's personnel in the performance of the Services at the rates and prices stated in Appendix 3 [Remuneration and Payment]. Where the rates and prices are not applicable then new rates and prices shall be agreed by the Parties. If agreement is not reached within fourteen (14) days of the issue of the relevant Notice, then reasonable rates and prices shall be applied; and

(b) the cost of all other expenses reasonably incurred by the Consultant.

7.1.3 The Client shall pay any other amounts that become due under the Agreement.

7.2 Time for Payment

7.2.1 Amounts due to the Consultants shall be paid within twenty-eight (28) days of the date of issue of the Consultant's invoice unless otherwise stated in Appendix 3 [Remuneration and Payment].

7.2.2 Without prejudice to Sub-Clause 6.5.2 (c) [Effects of Termination] the Client shall not withhold payment of any part of an invoice for any amount properly due to the Consultant under the Agreement by reason of claims or alleged claims against the Consultant unless the amount to be withheld has been agreed with the Consultant as due to the Client, or has

been awarded by an adjudicator or an arbitrator to the Client pursuant to a referral under Clause 10 [Disputes and Arbitration].

7.3 Currencies of Payment

- 7.3.1 The currencies applicable to the Agreement are those stated in Appendix 3 [Remuneration and Payment].
- 7.3.2 If at the Effective Date of the Agreement or during the performance of the Services the conditions in the Country (except where the Country is the principal place of business of the Consultant) are such as may:
- (a) prevent or delay the transfer abroad of Local or Foreign Currency payments received by the Consultant in the Country;
 - (b) restrict the availability or use of Foreign Currency in the Country; or
 - (c) impose taxes or differential rates of exchange for the transfer from abroad of Foreign Currency into the Country by the Consultant for Local Currency expenditure and subsequent re-transfer abroad of Foreign Currency or Local Currency up to the same amount, such as to inhibit the Consultant in the performance of the Services or to result in financial disadvantage to it. Then the Client agrees that such circumstances shall be deemed to justify the application of Clause 4.6 [Exceptional Event] if alternative financial arrangements are not made to the satisfaction of the Consultant.

7.4 Third-Party Charges on the Consultant

- 7.4.1 Except where specified in the Particular Conditions or Appendix 3 [Remuneration and Payment] and except where the Country is the principal place of business of the Consultant;
- (a) the Client shall whenever possible arrange that exemption is granted to the Consultant and those of its personnel who are not normally resident in the Country from any payment required by the government or authorised third parties in the Country which arise from the Agreement in respect of:
 - (i) their remuneration;
 - (ii) their imported goods other than food and drink;
 - (iii) goods imported for the Services;
 - (iv) documents imported for the Services;
 - (b) whenever the Client is unsuccessful in arranging such exemption, it shall reimburse the Consultant for such payments properly made, provided that the goods or



documents imported for the Services when no longer required for the purpose of the Services, and not the property of the Client;

- (i) shall not be disposed of in the Country without the Client's approval;
- (ii) shall not be exported without payment to the Client of any refund or rebate recoverable and received from the government or authorised third parties.

7.5 Disputed Invoices

- 7.5.1 Without prejudice and subject to Sub-Clause 7.2.3 [Time for Payment], if any item or part of an item in an invoice submitted by the Consultant is contested by the Client as not properly due under the Agreement, the Client shall, within seven (7) days of the date of issue of the Consultant's invoice, give a Notice of its intention to withhold payment with reason but shall not delay payment of the remainder of the invoice. Sub-Clauses 7.2.2 [Time for Payment] shall apply to all contested amounts which are finally determined to have been payable to the Consultant.

7.6 Independent Audit

- 7.6.1 Except where the Agreement provides for lump sum payments the Consultant shall maintain up-to-date records which clearly identify relevant time and expense and shall make these available to the Client on reasonable request.
- 7.6.2 Except where the Agreement provides for lump sum payments, not later than one year after the completion or termination of the Services, the Client may, by Notice of not less than fourteen (14) days to the Consultant require that an independent reputable firm of professionally qualified accountants nominated by it audit any time and expense records claimed by the Consultant. The audit shall be conducted by attending during normal working hours at the office where the records are kept, and the Consultant shall afford all reasonable assistance to the auditors. Any such audit shall be at the Client's cost.
- 7.6.3 The Consultant shall preserve for a period of ten (10) years following the termination of this Agreement, or for such longer period as may be agreed by the Parties, all records and other documentation related to the Services.

8 Liabilities

8.1 Liability for Breach

- 8.1.1 The Consultant shall be liable to the Client for any breach by the Consultant of any provision of the Agreement.
- 8.1.2 The Client shall be liable to the Consultant for any breach by the Client of any provision of the Agreement.

8.1.3 If either Party is liable to the other, damages shall be payable only on the following terms:

- (a) such damages shall be limited to the amount of reasonably foreseeable loss and damage suffered as a direct result of such breach;
- (b) in any event, the amount of such damages shall be limited to the amount stated in Sub-Clause 8.3.1. [Limit of Liability]; and
- (c) if either Party is considered to be liable jointly with third parties to the other Party, the proportion of damages payable by that Party shall be limited to the proportion of liability which is attributable to its breach.

8.2 Duration of Liability

8.2.1 Notwithstanding any term or condition to the contrary in the Agreement or any legal requirement of the Country or any other relevant jurisdiction (including for the avoidance of doubt, the jurisdiction of the place of establishment of the Consultant), neither the Client nor the Consultant shall be considered liable for any loss or damage resulting from any occurrence unless a claim is formally made on one Party by the other Party before the expiry of the relevant period stated in the Particular Conditions, such period to commence upon completion of the Services or termination of the Agreement (whichever is earlier). Each Party agrees to waive all claims against the other in so far as such claims are not formally made in accordance with this Sub-Clause 8.2.1.

8.3 Limit of Liability

- 8.3.1 The maximum amount of damages payable by either Party to the other in respect of any and all liability, including liability arising from negligence, under or in connection with the Agreement shall not exceed the amount stated in the Particular Conditions. This limit is without prejudice to any financing charges specified under Sub-Clause 7.2.2 [Time for Payment], and without prejudice to Sub-Clause 8.4.1.[Exceptions].
- 8.3.2 Each Party agrees to waive all claims against the other in so far as the aggregate of damages which might otherwise be payable exceeds the maximum amount payable under Sub-Clause 8.3.1.
- 8.3.3 Without prejudice to the right the Consultant may have under Sub-Clause 6.5.4 [Effects of Termination], neither Party shall be liable in contract, tort, under any law or in any statutory private right of action or otherwise, for any loss of revenue, loss of profit, loss of production, loss of contracts, loss of use, loss of business, third-party punitive damages or loss business opportunity or for any indirect, special or consequential loss or damage.

8.4 Exceptions

8.4.1 Sub-Clause 8.1.3 [Liability for Breach], Clause 8.2 [Duration of Liability], and Clause 8.3 [Limit of Liability] shall not apply to claims arising out of deliberate manifest and reckless



default, fraud, fraudulent misrepresentation or reckless misconduct by the defaulting Party.

8.5 Professional Liabilities

Notwithstanding anything to the contrary under this Agreement, the Consultant shall be responsible to the Client for any or all damages, claims, demands, expenses and/or other legal consequences arising out of or caused by negligence or fault of the Consultant or its personnel, or in case the Consultant or its personnel fails to meet or does not take any action which is required or should be done in accordance with the good standard or practice, profession code of ethics or applicable regulations.

9 Insurance

9.1 Insurance to be taken out by Consultant

- 9.1.1 The Consultant shall take out and maintain professional indemnity insurance and public liability insurance in amounts sufficient to cover its liabilities under the Agreement, provided always in each case that such insurance is available at commercially reasonable rates and on the terms (including normal exclusions) commonly included in such insurances at the time the insurances were taken out or renewed as the case may be. Such insurances shall be placed with insurers of international repute and standing. In assessing a commercially reasonable rate the Consultant's own claims record shall be disregarded.

The Consultant shall ensure that the minimum amount of cover under the policies is not less than the amount specified in the Particular Conditions

The Consultant shall ensure that its professional indemnity insurance is maintained for the period of liability stated in the Particular Conditions in accordance with Sub-Clause 8.2.1 [Duration of Liability}.

- 9.1.2 The Consultant shall take out and maintain workers' compensation insurance or employer's liability insurances and any other insurances as may be required by the applicable law for the duration of the Services.
- 9.1.3 When requested to do so by the Client, the Consultant shall produce brokers' or insurers' certificates to show that the insurance cover required by this Clause 9.1 is being maintained.
- 9.1.4 The Consultant shall notify the Client immediately should any the insurance required by this Clause 9.1 be cancelled by the insurers or underwriters.

10 Disputes and Arbitration

10.1 Amicable Dispute Resolution

- 10.1.1 If any dispute arises out of or in connection with the Agreement then senior representatives of the Parties with authority to settle the dispute shall, within twenty-eight (28) days of a



written request from one Party to the other, meet in order to attempt to resolve the dispute amicably.

- 10.1.2 If the dispute is not resolved within fifty-six (56) days of receipt of the written request, then either Party may refer the dispute to adjudication in accordance with Clause 10.2 [Adjudication], even if the meeting referred to in Sub-Clause 10.1.1 has not taken place.

10.2 Adjudication

- 10.2.1 Unless settled amicably, any dispute arising out of or in connection with the Agreement may be referred by either Party to adjudication in accordance with the rules for Adjudication in Appendix 5 [Rules for Adjudication]. The adjudicator shall be agreed between the Parties or failing agreement shall be appointed in accordance with the said Rules for Adjudication.
- 10.2.2 The Parties shall bear their own costs arising out of the adjudication and the adjudicator shall not be empowered to award costs to either Party. Without prejudice to the above, the adjudicator may decide which Party shall bear the adjudicator's fees and in what proportion.
- 10.2.3 If either Party is dissatisfied with the adjudicator's decision:
- (a) the dissatisfied Party may give a notice of dissatisfaction to the other Party; with a copy to the adjudicator;
 - (b) this notice shall state that it is a "Notice of Dissatisfaction with the Adjudicator's Decision" and shall set out the matter in dispute and the reason (s) for dissatisfaction; and
 - (c) this notice shall be given within twenty-eight (28) days of receiving the adjudicator's decision.
- 10.2.4 If the adjudicator fails to give its decision within the period stated in the Rules for Adjudication, then either Party may, within twenty-eight (28) days of this period expiring, give a notice to the other Party in accordance with Sub-Clause 10.2.3, sub-paragraphs (a) and (b), above.
- 10.2.5 Except as stated in Clause 10.5 [Failure to Comply with Adjudicator's Decision], neither Party shall be entitled to commence arbitration of a dispute unless a notice in respect of that dispute has been given in accordance with Sub-Clause 10.2.3 or 10.2.4. If such a notice has been given, and neither Party commences arbitration of the dispute within one hundred and eighty-two (182) days of giving or receiving the notice, such notice shall be deemed to have lapsed and no longer be valid.
- 10.2.6 Whether a Notice of Dissatisfaction with the adjudicator's decision has been issued or not by either Party, any adjudicator's decision shall become binding on both Parties upon its release.



10.2.7 If the adjudicator has given its decision as to matter in dispute to both Parties, and no notice under Sub-Clause 10.2.3 has been given by either Party within twenty-eight (28) days of receiving the adjudicator's decision, then the decision shall become final and binding on both Parties.

10.2.8 Adjudication may be commenced before or after completion of the Services. The obligations of the Parties shall not be altered by reason of any adjudication being conducted during the progress of the Services.

10.3 Amicable Settlement

10.3.1 Where a notice has been given under Sub-Clause 10.2.3 [Adjudication] or 10.2.4 [Adjudication], both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, arbitration may be commenced on or after the twenty-eight (28th) day after the day on which this notice was given, even if no attempt at amicable settlement has been made.

10.4 Arbitration

10.4.1 Unless settled amicably, subject to Clause 10.2 [Adjudication] and Clause 10.5 [Failure to Comply with Adjudicator's Decision], any dispute in respect of which the adjudicator's decision (if any) has not become final and binding shall be finally settled by international arbitration. Unless otherwise agreed by both Parties:

- (a) the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce;
- (b) the dispute shall be settled by one or three arbitrators appointed in accordance with these Rules; and
- (c) the arbitration shall be conducted in the ruling language defined in the Particular Conditions.

10.4.2 The arbitrator(s) shall have full power to open up, review and revise any ruling or decision of the Adjudicator.

10.4.3 In any award dealing with costs of the arbitration, the arbitrator(s) may take account of the extent (if any) to which a Party failed to cooperate with the other Party in appointing the adjudicator under Clause 10.2 [Adjudication].

10.4.4 Neither Party shall be limited in the proceedings before the arbitrator(s) to the evidence or arguments previously put before the adjudicator to obtain its decision, or to the reasons for dissatisfaction given in the Party's notice under Sub-Clause 10.2 [Adjudication]. Any decision of the adjudicator shall be admissible in evidence in the arbitration.

10.4.5 Arbitration may be commenced before or after completion of the Services. The obligations of the Parties shall not be altered by reason of any arbitration being conducted during the



progress of the Services.

10.5 Failure to Comply with Adjudicator's Decision

- 10.5.1 In the event that a Party fails to comply with any decision of the adjudicator, whether binding or final and binding, then the other Party may, without prejudice to any other rights it may have, refer the failure itself directly to arbitration under Clause 10.4 [Arbitration] and Clause 10.1 [Amicable Dispute Resolution], Clause 10.2 [Adjudication] and Clause 10.3 [Amicable Settlement] shall not apply to this reference. The arbitral tribunal (constituted under Clause 10.4 [Arbitration]) shall have the power, by way of summary or other expedited procedure, to order, whether by an interim or provisional measure or an award (as may appropriate under the applicable law or otherwise), the enforcement of that decision.
- 10.5.2 In the case of a binding but not final decision of the adjudicator, such interim or provisional measure or award shall be subject to the express reservation that the rights or the Parties as to the merits of the dispute are reserved until they are resolved by an award.
- 10.5.3 Any interim or provisional measure or award enforcing a decision of the adjudicator which has not been complied with, whether such decision is binding or final and binding, may also order or award damages or other relief.



PARTICULAR CONDITIONS

Part A. References from Clauses in the General Conditions

1.4. Definitions

1.1.4. Client's Representative

Geng Xin

China Railway Design Corporation Serbia Ogranak Beograd

1.1.5. Commencement Date

Signing of the contract and receiving the instruction for commencement of Design for Construction
Permit in written form from the Client

1.1.8. Consultant's Representative

Vidosav Stevanovic

Director of VS Infra Design doo Beograd

1.1.9. Country

Republic of Serbia

1.1.22. Project

Section II of Road Design for Modernization and Reconstruction of Hungarian-Serbian Railway



1.1.24. Time for Completion

Refer to Appendix 4

1.3. Notices and other Communications

1.3.1.(c) Communication

Except as expressly provided in this Agreement, any notice, instruction or other communications made under this Agreement shall be in English and shall be in writing and sent to the respective address of correspondence of both Parties (for the address of the Client and the Consultant, see Subclause 1.3.1.(d) below) or other address that the Consultant notifies the Client or that the Client notifies the Consultant (as applicable), and such notice shall be deemed effective if it is sent in writing seven days in advance and only after the other Party has received it, and such notice, instruction or other communications shall be deemed effective under the following circumstances:

- (i) if delivered by hand, it shall be effective upon delivery;
- (ii) in the case of mailing, the certified receipt shall prevail;
- (iii) in the case of courier service, it will be effective upon receipt;
- (iv) if by facsimile transmission, the transmission report of the sender which indicates that the addressee has received the entire facsimile shall take effect; or
- (v) if e-mail is adopted, it shall take effect after the sender has received the receipt.

1.3.1.(d) Address for communication

Client's Address: **Koste Racina 16b Belgrade, Serbia**

Email: **liuaiqiao@crdc.com, xuda@crdc.com, Bojan.ratkovic@crdc.rs**

Facsimile number [Number]



Consultant's address: **Jurija Gagarina 249, Novi Beograd, Serbia**

Email: **vidosav.stevanovic@vsinfradesign.com, dejan.radojcic@vsinfradesign.com**

Facsimile number [Number]

1.4. Law and Language

1.4.1. Law Governing Agreement

Serbian law

1.4.2. Ruling language of Agreement

English

1.4.3. Language for communications

English

1.8. Confidentiality

1.8.3. Period for expiry of confidentiality

Three years after issue of Taking-over certificate for the Whole Project

7.3.2 Not applicable

7.4 Not applicable

8.2. Duration of Liability



8.2.1. Period of Liability

12 months after issue of Taking-over certificate for the Whole Project

8.3.Limit of Liability

8.3.1. Limit of Liability

Contract Sum

9. Insurance

9.1.1 Insurance to be taken out by Consultant

Professional Indemnity Insurance [0.3% of Contract Price per year]

10. Disputes and Arbitration

10.2 Not applicable

10.4.1 Arbitration Rules and Location:

Permanent Arbitration at the Chamber of Commerce of Serbia

10.4.1 Language of Arbitration:

English



APPENDICES

APPENDIX 1 - SCOPE OF THE SERVICES

Scope of Work and Requirements for Consultant for Section II of Design of Road for Hungarian-Serbian Railway Connection of the Territory of Serbia, for Section Novi Sad –Subotica- State Border(Kelebija)

1. Task Background

The Novi Sad-Subotica section of the Hungarian-Serbian Railway is located in the autonomous province of Vojvodina in northern Serbia and is a part of Europe's major international railways. The starting point is Serbia's second largest city, Novi Sad, via Verbas, Bacikatojola, Subotica and the Hungary-Serbia border. The Novi Sad-Subotica section is an existing single-track electrified railway with a total length of 107.7km. This project will form a modern double-track railway with mixed passenger and freight after the railway transformation, with a maximum speed of 200km/h. All level crossings on the main line will be demolished and some overpasses will be rebuilt to improve the efficiency and safety of railway traffic.

2. Mission Objectives

Completing the design of roads and appurtenant structures for Design for Construction Permit and Design for Execution of Works in accordance with the requirements of contract, Joint Venture, and the Client, the design shall meet the needs from the Employer and local authorities and shall meet the requirements of Serbian legal provisions and regulations and facilitate the final construction. The design results of each stage shall obtain approval from the third-party consultant and relevant authorities.

3. Scope of Work

The design phase includes Design for Construction Permit, Design for Execution of Works and necessary design clarification and modification during construction.

3.1 Specific main tasks include:

- (1) Design specification.
- (2) Design of route plan, profile, crossing sections.
- (3) Design of pavement structure.
- (4) Design of drainage system (mechanical drainage not included) .
- (5) Design of the general subgrade:



- a. The roadbed filling and the standard of the degree of compaction.
 - b. Subgrade slope (the grade of side slope, type of protection for side slope).
 - c. Foundation surface treatment.
 - d. Design of the low filling and shallow excavation section.
 - e. Treatment of transition section at the back of abutments of bridges and culverts and special subgrade.
 - f. The lapping of new and old roads.
- (6) Design of the subgrade retaining structure :
- a. Design of the cantilever retaining wall and the counterfort retaining wall.
 - b. Design of the gravity retaining wall and the balance weight retaining wall.
 - c. Design of the U-shaped retaining wall.
 - d. Design of the composite foundation.
 - e. Design of the retaining and protection of the foundation excavations.
- (7) Structural design of overpass
- a. Design of upper beam for overpass.
 - b. Design of piers and pile foundations for overpass.
 - c. Design of auxiliary structures of the bridge.
- (8) Design of railway underpass bridge
- (9) Other relevant design in accordance with relevant laws, regulations and specifications of Serbia.

The above design content includes design specifications, drawings, BOQs, calculation sheets, and relevant contents of design required for approval.

(10) Technical Exchanges

The Consultant shall organize regular technical exchanges with the Client. It mainly includes the following:

- a. The Consultant is responsible for introducing the relevant laws and regulations of Serbia to the Client;
- b. The Consultant is responsible for introducing the design standards and adopted specifications to the Client;
- c. The Consultant is responsible for explaining the calculation methods used in the design to the Client;



- d. The Consultant is responsible for introducing the common software and using methods to the Client;
- e. The Consultant is responsible for answering relevant questions raised by the engineers of the Client.

3.2 Workload

Newly built or rebuilt roads and bridges along the entire line are divided into two Sections for this bidding: Section I and Section II. The Bidder shall submit the proposal for the two Sections separately. This ToR is used for Section II.

3.2.1 Workload of Section II

a. Design of road alignment and Pavement Structure

There are 23 new built or rebuilt roads with the total length of 13574m, among which there are 9 overpasses to railway from crossings, 1 rebuilt overpass after demolishing, 11 underpasses to railway from crossings and 1 rebuilt underpass after demolishing.

b. Subgrade

There are 10 roads of overpasses crossing the railway and 13 underpasses crossing the railway, among the underpasses there are 4 U-shaped trenches, 1 retaining wall, 8 U-shaped trenches with retaining walls, the total length of subgrade retaining wall is 973.5m and for U-shaped trench is 977m. All the other places of overpasses are design of normal subgrade.

c. Overpass

There are 10 overpasses and 1 major animal gallery, 13 railway frame structures, 1 reconstructed road bridge and 2 underpasses after demolishing.

Statistical table of work quantities of the road (Section II)

No.	Mileage pile number	over or under railway	width (m)	Length (m)	the form of crossing railway	length of retaining wall (m)	length of U-shape retaining wall (m)	Overpass Width (m)	Overpass Length (m)	Overpass/underpass area (m ²)	Note
1	K89+984.34	under	5	161.82	retaining wall +U-shape retaining wall	20	60	12.55	5.5	69.025	underpass
2	K97+034.94	under	5	224.3	U-shape retaining wall		115	13.05	5.5	71.775	underpass
3	K113+327.64	under	9.5	872	retaining wall +U-shape retaining wall	100	15	12.5	21.63	772.47	underpass
4	K118+708.31	under	8	805.78	retaining wall	138.5		13.91	13.91	209.612	underpass
5	K142+055.5	under	10.25	575	retaining wall +U-shape retaining wall	150	95	18.48	16.97	270	underpass
6	K142+713.52	under	6.5	112.78	retaining wall +U-shape retaining wall	100	75	27.35	5.5	150.4	underpass
7	K143+729.21	under	11.25	396.67	retaining wall +U-shape retaining wall	100	86	29.25	13.83	607.06	underpass
8	K156+455.99	under	8.75	532.05	retaining wall +U-shape retaining wall	150	50	24.4	9.3	226.92	underpass
9	K157+443.73	under	10.85	402.39	retaining wall +U-shape retaining wall	170	100	13.1	12.15	160.34	underpass
10	K160+094.84	over	8.2	767.48	general subgrade			9.4	139.7	1313.18	overpass
11	K163+562.52	over	8.2	727.54	general subgrade			9.4	212.5	1997.5	overpass
12	K168+690.22	over	8.2	820.5	general subgrade			9.4	191	1795.4	overpass
13	K170+534.91	over	8.2	905.56	general subgrade			9.4	150.2	1411.88	overpass

14	K172+193.38	over	8.2	615.94	general subgrade				9.4	128.9	1211.66	overpass
15	K174+515.35	under	11.25	1406.17	U-shape retaining wall		220		36.9	19.31	630.82	underpass
16	K174+928.10	under	8.75	261.74	U-shape retaining wall		45		46.4	10.55	611.29	underpass with demolition and reconstruction
17	K176+274.84	under	29.5	315.67	U-shape retaining wall		86		55.82	30.5	1544.3	underpass with demolition and reconstruction
18	K177+329.42	over	11.5	444.13	general subgrade				12	42	504	overpass with demolition and reconstruction
19	K177+857.22	under	10.25	425.96	retaining wall +U-shape retaining wall	45	30		12.8	30.28	532.25	underpass
		over							11.65	25.9	301.735	overpass
20	K179+399.74	over	8.2	1364.79	general subgrade				9.4	152.1	1429.74	overpass
21	K180+969.60	over	8.2	783.13	general subgrade				9.4	198.5	1865.9	overpass
22	K181+950	over	20	62.06	general subgrade				27.2	17.8	484.16	overpass
23	K184+258.47	over	8.2	591.31	general subgrade				9.4	105.7	993.58	overpass
	Total			13574.77						1528.95	18632.751 4	

Note:

(1) The length and structural form in the table will be optimized according to the building permit design scheme.

(2) The design content does not include mechanical drainage and lighting.

(3) The workload statistics are based on the preliminary design documents provided by the CIP. Some railway mileage sites include connecting roads, which are also included in the bidding as design content, and may be adjusted slightly later.

4. Main Standards

Eurocode and relevant design manual, mainly includes:

SRPS EN 1990 Basis of structural design

SRPS EN 1991 Actions on structures

SRPS EN 1992 Design of concrete structures

SRPS EN 1993 Design of steel structures

SRPS EN 1994 Design of composite steel and concrete structures

SRPS EN 1996 Design of masonry structures

SRPS EN 1997 Geotechnical design

SRPS EN 1998 Design of structures for earthquake resistance

Interoperability technical specifications related to the "Infrastructure" subsystem of the Trans-European High Speed Rail System (TSI 1299-2014)

Serbian Code for road design and relevant design manuals, mainly includes:

SRDM1-0-planska-tehnicka-investiciona-dok(120505-srb-konacna)

SRDM2-0-geotehnicka-i-hidroloska-istras(120505-srb-konacni)

SRDM3-0-saobracaj(120505-srb-konacni)

SRDM4-0-projektni-elementi-puta(120506-srb-konacni)

SRDM5-1-raskrsnice-i-prikljuci-u-nivou(120427-srb-konacni)

SRDM5-2-denivelisane-raskrsnice(120505-srb-konacna)

SRDM5-3-kruzne-raskrnice(120427-srb-konacni)



SRDM5-4-pruzni-prelazi(120506-srb-konacna)

SRDM5-5-saobracajne-povrsine(120505-srb-konacna)

SRDM5-6-biciklisticke-povrsine(120505-srb-konacna)

SRDM5-7-pesacke-povrsine(120505-srb-konacni)

SRDM5-8-servisne-saobracajne-povrsine(120508-srb-konacni)

SRDM5-9-povrsine-za-putnu-sluzbu(120430-srb-konacna)

SRDM5-10-vodenje-saobrac_pored(120427-srb-konacni)

SRDM11-4-kolovozne-konstrukcije(120505-srb-konacni)

SRPS U.C4.011 / 1990

SRPS U.C4.010 / 1981

SRPS U.E1.012/ 1981

SRPS U.B9.010 / 1981

SRPS U.B9.012 / 1981

SRPS U.C4.016 / 1981

SRPS U.E1.010:1981

SRPS U.E8.010/ 1981

SRPS U.C4.015 / 1994

SRPS.E4.014:1990

SRPS.E9.021:1986

AASHTO 1993 Design Manual

Technical Conditions and Maintenance Rules for Railway Tracks ("Official Gazette of RS" No. 39/2016 and 74/2016)

The Law on Railway ("Official Gazette of RS", number 41/2018/54)

The Law on Safety and Interoperability of Railway published in Official Gazette of the Republic of Serbia", No. 104/2013, 66/2015-other act, 92/2015, 113/2017 – other act and 41/2018 – other act.

The Law on Planning and Construction published in Official Gazette of RS, Nos. 72/2009, 81/2009 - correction, 64/2010 - decision of the CC, 24/2011, 121/2012, 42/2013 - decision of the CC, 50/2013 - decision of the CC, 98/2013 - decision of the CC, 132/2014, 145/2014, 83/2018, 31/2019, 37/2019 - other act and 9/2020;



Other European standards and Serbian domestic standards applied in the project.

If the standard specifications and legal provisions are updated, they will be implemented in accordance with the newly promulgated provisions. The Consultant is obliged to provide information on the updates of the relevant standard specifications and legal provisions.

5. Main Information Provided

- (1) Preliminary design of the project completed by CIP.
- (2) The worksite list of the roads.
- (3) Agreements with the management authorities of the roads.
- (4) The route plan, profile, crossing sections of the design railway.
- (5) Survey data including topographic map, the elevations of the route and cross sections.
- (6) Geological data.
- (7) LCD document
- (8) Overall design principles
- (9) Principles of bridge specialty design

6. Specialty Technical Requirements

- 6.1 The Consultant must design according to the rules, standards and procedures accepted by authorities of Serbia. The design documents and drawings must get Construction Permit of Serbia. The design must comply with Serbian standard first, Euro code shall prevail while no Serbian standards to be followed.
- 6.2 The design results shall be corresponding to the design demand of the other specialties. And it shall satisfy the interface requirements of the relevant specialties. The design results shall be convenient for the construction.
- 6.3 The Consultant shall actively cooperate with the Client, and provide interface information no later than the appointed time. The interface information between the specialties as follows:
 - 6.3.1 Interface information between the road route specialty and the railway route specialty, the railway subgrade specialty, the railway bridge specialty:
 - a. The railway route specialty shall provide information as follow: the mileages of the crossings, the railway route plan, the railway route vertical, the railway clearance limit, the road clearance limit, the agreements and so on.
 - b. The railway subgrade specialty shall provide the railway cross sections at the joint.



- c. The railway bridge specialty provide the scope of the culvert, the plan of the culvert, the cross section of the culvert, and the retaining and protection of foundation excavation.

6.3.2 Design interface between Road subgrade and road route, road overpass:

- a. The route specialty shall provide the route plan, the profile map and the standard cross section.
- b. The bridge specialty shall provide the bridge plan and the bridge gap.
- c. The subgrade specialty shall provide the gap of the retaining wall and U-shape retaining wall.

6.3.3 Interface information between the road subgrade specialty、the road bridge specialty and geological survey specialty:

- a. the road subgrade specialty shall provide the worksite list of the retaining wall and closed cut.
- b. the road bridge specialty shall provide the plan and vertical of the bridge.
- c. the geological survey specialty shall provide the geological data for the other specialties.

6.3.4 Interface information between the road specialty, the underpass specialty and mechanical drainage:

- a. The route specialty shall provide the route plan、the profile map and the standard cross section.
- b. The railway bridge specialty shall provide the scope of the culvert, the plan of the culvert, the cross section of the culvert.
- c. The hydraulic specialty shall provide the mechanical drainage requirements.

6.3.5 Interface information between the road bridge specialty and other major specialties:

- a. The route specialty shall provide the plan and vertical of the roads.
- b. the road bridge specialty shall provide the plan, the vertical and the cross section of the bridges.

6.3.6 Design interface between underpass and other major specialties:

(1) Design interface for underpass and alignment specialty

- ① Route specialty shall provide line plane, longitudinal section, line spacing table, curve table, road crossing table, and underground pipeline table;
- ② Underpass specialty shall provide underpass tables, underpass range, and minimum rail elevations.

(2) Design interface between underpass specialty and station specialty



- ① Station yard specialty shall provide station yard cross sections, road crossing tables, and pipeline tables.
- ② Underpass specialty provides underpass tables and underpass range.
- (3) Design interface between underpass specialty and subgrade specialty
- ① Subgrade specialty provides the design results of the cross section of the subgrade, the frame structure, and the measures for the bridge and subgrade transition sections.
- ② Underpass specialty provides underpass tables and underpass range.
- (4) Design interface between underpass specialty and geology specialty:
- ① Geology specialty provides parameters such as geological reports, meteorological data, and seismic motion.
- ② Underpass specialty provides bridge underpass tables, underpass range and underpass site longitudinal sections.
- (5) Design interface of underpass specialty and track specialty:
- ① Track specialty provides track standards and built heights.
- ② Underpass specialty provides the underpass table, underpass range, and guard rail setting range.
- (6) Design interface of underpass specialty and environmental protection specialty:
- ① Specialties in environmental protection provide requirements for the location of sound barriers on the underpass, the load for the foundation, and the dimensions of the foundation.
- ② Underpass specialty provides underpass tables and underpass range.
- (7) Design interface for underpass and communication specialty
- ① Communication specialty provides requirements for cable paths on the underpass and reservation requirements for cables on the underpass.
- ② Underpass specialty provides underpass tables and underpass range.
- (8) Design interface between underpass specialty and signal specialty
- ① Signal specialty provides requirements for cable paths on the underpass and reservation requirements for cables on the underpass.
- ② Underpass specialty provides underpass tables and underpass range.
- (9) Design interface for underpass specialty and surveying specialty

① Surveying specialty provides materials such as elevation tables and cross sections of underpass site.

② Underpass specialty provides underpass tables and underpass range.

6.4 The design shall implement the overall design principles and the bridge specialty design principles.

6.5 During the design process, if the bridge plan is adjusted due to changes in external boundary conditions or line plans, the Consultant shall modify the design according to the adjustment plan upon receive notification from the Client.

6.6 The service can be divided into variable stages: Design for Construction Permit (PGD), Design for Execution of Works (PZI), the coordination during the design document review process, and necessary design clarification and modification during the construction process.

6.7 Underpass design procedure

- 1) The Client shall provide the preliminary bridge design results, bridge optimization plan structure outline and plan adjustment instructions to the Consultant;
- 2) The Consultant shall carry out Design for Construction Permit, understand the design plan, carry out design calculation work on the bridge plan, deepen the bridge plan, form a calculation sheet, and complete the design drawing. If there are any problems during the check-up process, inform relevant bridge design engineer of the Client in time.
- 3) After the Consultant complete the calculation sheets, they shall further update the project quantity and price list, and correct the project quantity, supplement the price, and revise the technical report at the same time according to the check result.
- 4) After the Consultant complete the design documents in English and Serbian, the responsible engineer of the Consultant shall sign it and submit it to the Client for review.
- 5) The Client shall complete review and provide comments.
- 6) The Consultant shall revise and finalize the final design documents in English and Serbian based on the Client's comments and submit them to the Client.
- 7) The PGD documents submitted by the Client to the Serbian Railway and the National Review Board shall be signed by the responsible engineer of the Client.
- 8) The Consultant must complete the design documents according to time requirement.

6.8 All structural design calculation notes, including the following:

- 1) A detailed calculation process for the value of the load and the calculation process, explain the referenced code provisions, classification and value of the bridge design load.
- 2) The bearing capacity, stress, deflection, cracks and foundation settlement of the bridge structure, as well as the relevant check and calculation provisions of Article A2.4.4 of the Annex of EN1990.
- 3) Internal checking, comments and revisions of the Consultant.



4) The basis, basic requirements, testing and maintenance requirements of structural durability design.

5) Other contents to be included in the calculation note.

6.9 The construction site design documents completed by the Consultant shall include the investment composition in the form of BOQ (which shall be the same or similar to CIP format). The determination of the unit price of the main works requires the provision of corresponding data, such as the source of unit price, calculation rules, project contents included etc., so as to facilitate the investment review.

6.10 If the investment changes due to changes in external environment, policies and regulations, and the Employer's requirements, the Consultant shall give a detailed description of the design and cost changes caused by the corresponding changes.

7. Documents Submission Requirements

7.1 Format requirements of documents

All design documents shall include but not limited to:

Technical reports (submit in pdf and doc format);

Design drawings (submit in pdf and dwg format);

Material specifications (submit in pdf, dwg, doc format);

Calculation book (submit in pdf, doc, xls and other editable formats);

Project quantity and Price list, including preface files, BOQ list (submit in editable formats such as pdf and doc, xls);

The source files and the output reports of the calculation software for preparation of the calculation book shall be submitted to the the Client as required during the design process when the design completed;

Presentation materials required for demonstrating to relevant Serbian review authorities shall be submitted to the Client in editable formats such as pdf and ppt;

All road-related interface (submit in dwg or doc, xls format).

The design documents and other materials submitted to the Client for review shall be in English.

7.2 The design results are submitted in the form of design report, and at least one set of documents is required for each bridge for each design stage.

7.3 The design document shall be submitted in both format of hard copy and electronic copy, the final version shall be submitted in English and Serbian languages.

7.4 The electronic file shall adopt the naming format with corresponding drawing and document numbers, and be readable. Table of contents shall be attached in the electronic documents provided, and the names of drawings or documents, numbers and electronic file names shall be contained in the table of contents.

7.5 According to Serbian " The Law on Planning and Construction ", documents of Design for Construction Permit include:

2/1-1.X Underpass or overpass (X is the bridge serial number)

2/1-1.X.1 Title page

2/1-1.X.2 Table of contents

2/1-1.X.3 Appointment of responsible designer

2/1-1.X.4 Statement by the responsible designer

2/1.x-1.5 Textual documentation

Employer's demand

XXX Underpass or overpass

Technical Report

Design condition input

Graphic design instructions

Beam structure design instruction/ frame design

Pier and cap structure design instructions

Foundation structure design instruction

Other instructions

Structural design instructions

General remarks

2/1-1.X.6 Digital file

Priced Bill of Quantities (BOQ)

Structural analysis

2/1-1.X.7 Graphic documentation

Plan, elevation, cross-section of the bridge

The contents of the documents are not limited to the above.

7.6 According to Serbian "The Law on Planning and Construction", documents of Design for Execution of Works of bridge includes:

2/1-1.x Underpass or overpass (X is the bridge serial number)

2/1.x-1.1 Title page

2/1.x-1.2 Table of contents

2/1.x-1.3 Appointment of responsible designer

2/1.x-1.4 Statement by the responsible designer

2/1.x-1.5 Textual documentation

Employer's demand

XXX Underpass or overpass

Technical Report

Design condition input

Graphic design instructions

Beam structure design instruction/ frame design

Pier and cap structure design instructions

Foundation structure design instruction



Other instructions

Structural design instructions

General remarks

2/1.x -1.6 Digital file

Priced Bill of Quantities (BOQ)

Structural analysis

2/1.x -1.7 Graphic documentation

The drawings of underpasses generally include: plan view of the bridge, elevation view, cross-section view, typical cross section, structural drawing of the frame, structural drawing of the retaining wall and U-shape retaining wall, frame / retaining wall / U-shape retaining wall reinforcing bar layout drawing, railing structure drawing, bridge deck sidewalk step structure drawing and steel bar layout drawing, bridge deck waterproof layer And protective layer structure map, sound barrier reserve foundation structure, catenary column foundation reserve structure, bridge deck other auxiliary facilities drawing, platform on bridge deck structure drawing, material table.

The drawings of overpasses generally include: plan view of the bridge, elevation view, cross-section view, typical cross section, structural drawing of the beam, structural drawing of the pier (abutment), structural drawing of the cap, basic structural drawing, layout of the support, pre-stressed steel strand Line layout drawing, beam body / pier / foundation reinforcing bar layout drawing, abutment transition slab construction drawing, abutment transition slab reinforcement drawing, bridge deck sidewalk step structure drawing and steel bar layout drawing, bridge deck waterproof layer And protective layer structure map, bridge deck other auxiliary facilities drawing, platform on bridge deck structure drawing, material table.

8. Documents Acceptance Standards and Acceptance Forms

8.1 The design results shall include all the information submitted to relevant Serbian authorities and the Client, including design drawings, design documents, and reporting materials at each stage.

8.2 Conduct the design service in accordance with the current legal provisions, regulations, standards, specifications, codes, and technical regulations of Serbia, as well as the requirements of the Client and the agreement and design principles.

8.3 Ensure the design input is correct, the calculation of the engineering quantity meets the accuracy requirements, the design results drawings meet the standards, and the signatures in the documents sent to the Client for review are complete.

8.4 Implement the requirements of the Client 's quality management system and environmental management system during the design process.

8.5 Allocate the assignments to enough personnel with corresponding design qualifications as promised in the contract or as required by the Client. key positions is not allowed to be replaced without the Client's consent.

8.6 The Consultant shall submit qualified design results within the time requirement as stipulated in the contract.

8.7 Abide by the rules and regulations formulated by the Client, properly keep relevant information provided by the Client, and keep the results data confidential.



8.8 All the design documents submitted by the Consultant must include both English and Serbian versions. The two versions of the documents shall be consistent during the whole process.

8.9 The Consultant shall submit Monthly Progress Report to the Client for the month before 5th of next month during the whole design periods, which shall include Design work completed this month, design plan for next month and important issues and challenges at least.

9. Requirements on Key Technical Personnel

9.1 Key engineers of the Consultant shall have registration certificates in Serbia. The engineers working for this assignment shall include Engineer for road (Route) design, Engineer for geotechnical (subgrade) design, Engineer for structure (bridge and retaining structure) design and shall be engaged in specialty technical work for no less than 8 years.

9.2 Responsible for all technical work in his specialty, and bear the main responsibility for the legitimacy and correctness of all design results, and have the right to sign design documents.

9.3 Responsible for all technical interface work of his specialty with the Client engineers and responsible for efficiently transferring all technical requirements proposed by the Client to relevant specialty designers.

9.4 Participate in all design review meetings organized by relevant Serbian authorities with the Client, and clarify the raised question after authorized by the Client.

9.5 Respond to the formal specialty and technical requirements proposed by the Client. If there is any contradiction or deviation from the formal specialty and technical requirements proposed by the Client and local legal provision, regulations, standards, and norms, promptly response with a proposal or suggestion to the Client for approval.

9.6 Responsible for clarifying related technical issues raised by the Client during the design stage and the review stage, with regard to legal provisions, regulations, standards, normative basis, calculation methods, etc.

10. Time Requirements

Refer to Appendix 4.

**APPENDIX 2 - PERSONNEL, EQUIPMENT, FACILITIES AND SERVICES OF OTHERS TO BE PROVIDED
BY THE CLIENT**

- Design outcomes and documentations of Section II of Road Design;
- Requirements and cooperation from relevant professions;
- Requisite data and any other information available within the Client required by the Consultant to facilitate smooth execution of the assignment.



APPENDIX 3 - REMUNERATION AND PAYMENT

Unless otherwise specified in this Agreement, the consultancy fees (fees incurred out of Services provided by the Consultant under this Agreement) shall be the fixed total amount specified herein. Unless otherwise explicitly permitted in this Agreement, the cost, price and rate set forth herein shall not be adjusted for any reason (including but not limited to) currency fluctuation and the increased cost of materials or labor.

the Consultant shall pay the various taxes, duties and expenses (including but not limited to) specified by the state laws to the relevant local government agencies, and the consultancy cost, price and rate set forth herein shall not be adjusted with the change in such taxes, duties and expenses. The consultant is obliged to assist the Client to get the VAT refund (if any).

The payment of the CONSULTANT's FEE shall be made as follows:

1. First payment after the signing of the Agreement, in a sum equal to TEN PERCENT (10%) of the total contract price, after the following conditions are met cumulatively:
 - Design personnel of the Consultant on site and the Client confirmed implement condition of this Contract is met;
 - Consultant submits the acceptable performance security to the Client and
 - Client receives the first payment from CRIC--CCCC JV.
2. The Design for Construction Permit of the roads and bridges are unconditionally approved by the Client, the Employer and the relevant authority departments, a sum equal to Thirty PERCENT (30%) of the total contract price;
3. The Design for Execution of Works of the roads and bridges are unconditionally approved/accepted by the client, the Employer and the relevant authority departments, a sum equal to Fifty-five PERCENT (55%) of the total contract price;
4. The sum equal to Five PERCENT (5%) of the total contract price upon issuance of Final acceptance i.e. when the following conditions have been met cumulatively:
 - Performance Certificate for the Whole Project is issued by the Employer/Engineer;
 - CRIC--CCCC JV returns the performance Guarantee to the Client.

The Consultant shall ensure that the performance security is valid and enforceable before implementing and completing the Services under this Agreement (subject to validation from the Client). If the Client fails to confirm the completion inspection towards the Services provided by the Consultant 28 days before the due date specified in the performance security, the Consultant shall extend the validity of the performance security, until when the Consultant completes Services under this Agreement (subject to validation from the Client).

The performance guarantee in amount of 10% of the total contract amount shall be submitted to the Client within 28 days after signing of the Contract and released within 15 days from completion of the

defect liability and having made good all the defects on a request by the Consultant.

The Consultant's fee shall be paid progressively or partially based on the presented invoices, each payment to be equivalent to the progress of work satisfactorily accomplished and not yet paid. The Consultant can submit application with acceptance documents and relevant permits for the payments to the Client once the requirements for the payments have been met.

No final payment shall be made until the Consultant submits to the Client a certification to the effect that the undertaking provided herein has been satisfactorily completed. In case of default of the Consultant, at any stage before achieving Permit for Construction, payment to the Consultant shall be proportional to the design work thus accomplished. The Consultant shall also take full responsibility for the loss of the Client resulted thereof.

If the Consultant fails to accomplish the assignment as the clauses and regulations stated in this Agreement, the Client reserves the right to adjust the scope of the Services and may entrust part of assignment to a third party. The scope of the Services and the Agreement Sum for this Agreement may also be adjusted accordingly.



APPENDIX 4 - PROGRAMME

4.1. Working Period

The Consultant shall work in the manner up to the end of the liability period as defined in the Agreement.

4.2. Time Requirements

The Consultant shall start the work immediately upon signing of the contract and receiving the instruction for commencement of Design for Construction Permit in written form from the Client, and the time is as follows:

- 4.2.1. The Consultant shall start the Design for Construction Permit work immediately upon signing of the contract and receiving the instruction for commencement of Design for Construction Permit in written form from the Client, submit the Design for Construction Permit documents within 70 days to the Client for review, and submit the properly rectified and qualified design results within 10 days after receiving comments from the Client and other authorities.
- 4.2.2. The Consultant shall complete Design for Execution of Works documents of all roads and bridges and submit them in 55 days upon receive the instruction for commencement of Design for Execution of Works from the Client in written form. And submit the properly rectified and qualified design results within 10 days after receiving comments from the Client and other authorities.
- 4.2.3. The Consultant shall make their best efforts to assist the Client to acquire approval of design documents from the Employer or relevant authorities.
- 4.2.4. If during the design and approval process, the period is prolonged for reasons not attributable to the Client and the Consultant, both Parties shall jointly bear the responsibility caused by the extension of the design cycle and delay in the design cycle, however the total contract price agreed herein shall not be changed.
- 4.2.5. During the design process, the design duration shall not be extended due to the consultant's reasons without the written consent of the Client. If such a situation occurs, The Client has the right to deduct the corresponding design cost in the design fees of the design stage according to the extent of the loss.
- 4.2.6. During the construction period, the Consultant shall be responsible for design clarification for their design documents and shall be responsible for design modification resulted from any error, inaccuracy, ambiguity, inconsistency, inadequacy, omission or other defects of the Consultant without any additional payment.

4.3. Human Resources Schedule

No.	Names	Positions	Responsibilities
1	Vidosav Stevanović	Project Manager	Leading member of the entire team in charge of organizing and executing the job well
2	Janko Radovanović	Geotechnical Engineer (for design of subgrade)	Geotechnical Engineer who conducts complete geological work and coordinates with other team members
3	Dejan Radojčić	Road Engineer (for design of route)	Road Engineer who conducts complete road design work and coordinates with other team members
4	Damir Peco	Bridge Design Engineer	Bridge Engineer who conducts complete bridge design work and coordinates with other team members
5	Marija Majkić	Structural Engineer	Structural Engineer who conducts complete bridge design work regarding structure
6	Maja Dimitrijević	Cost Estimate Engineer	Work on BOQ

APPENDIX 5 -CONFIDENTIALITY AGREEMENT

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement is entered into by and between China Railway Design Corporation Serbia Ogranak (hereinafter referred to as: Client) and **Consortium of VS Infra Design Doo Beograd, ENCODE doo Beograd and Beoexpert Design doo Beograd** (hereinafter referred to as: Consultant) for the purpose of preventing the unauthorized disclosure of Confidential Information as defined below. The parties agree to enter into a confidential relationship with respect to the disclosure of certain proprietary and confidential information (hereinafter referred to as: Confidential Information).

1. Definition of Confidential Information. Confidential Information shall have the meaning given to it in Sub - clause 1.1.5. of General Conditions of the Agreement.

In addition to this, confidential information shall refer to any information and material relating to the business, personnel, finance, technology, sales, marketing, internal management, financing, operation or plan and employment-related issues of Client, which are provided or disclosed by Client orally, in writing, in kind, or electronically to Consultant, including but not limited to the corporate registration documents, articles of association, contracts or agreements, and assets title documents of Client and its shareholders and directors.

Furthermore, Confidential Information is any data of financial and strategic nature as well as any data defined as professional secret by the General rules of the Client, laws and/or the Agreement.

Confidential information specifically includes but is not limited to: projects and technologies developed or licensed by or on behalf of the Client, as well as any documentation relating thereof; marketing plans, product development plans, competitive analysis, business and financial plans or forecasts, non-public financial information, contracts and business partners, associates and Employees lists; letters of intent, engagement letters, order forms, approval forms, bids, proposals or quotes and purchase orders; all information or materials related to Client's know-how; all information that need to be treated as confidential in accordance with the Client's legal obligations, or information treated as Client's property or designated as confidential by the Client, or information for internal use only, whether or not owned or developed by the Client.

Confidential Information shall also include any and all personal information related to the Client's shareholders and directors and prohibition of disclosure includes, but is not limited to, the obligation of the Consultant not to disclose or comment such information to any Third Party.

2. Exclusions from Confidential Information. As defined in the General conditions of the Agreement, sub - clause 1.8.2.

3. Expiry of confidentiality. The confidentiality provisions of this Agreement shall survive the termination of the Agreement and Parties shall hold Confidential Information in confidence until the expiry of three years after issuance of taking over certificate for the Project.



4. Importance of Confidential Information. It is agreed and acknowledged by Parties that the Confidential Information under the Agreement and this Confidentiality Agreement owned by Client is unique, confidential and valuable, and that if Consultant discloses any Confidential Information to any Third Party in violation of the provisions of this Agreement, such disclosure will cause material losses and effects on the business and other rights and interests of Client. Accordingly, the Consultant confirms and agrees that the Client is entitled to take any legal action at its disposal to prevent infringement or impede further infringement, such as to submit claims, injunctions and preliminary injunctions to the competent court.

5. Confidentiality Measures. Unless otherwise agreed by the Parties hereto, Parties shall take strict confidentiality measures for the Confidential Information provided by the other Party, and shall not disclose to any Third Party or use for any other purposes the Confidential Information disclosed or provided by the other party without their prior written consent.

Consultant shall store all the materials containing the Confidential Information at the safe and reliable place, shall not lose control of all or part of the Confidential Information, and shall take all the reasonable measures to prevent the occurrence of such event due to any negligence.

Consultant shall not copy, reproduce or make any extract from any Confidential Information, unless such act is reasonably required by the Project.

Consultant shall take strict confidentiality measures for the Confidential Information to the same degree as it protects its own similar confidential information, in order to prevent any unauthorized disclosure thereof, provided that in no event shall such protection be lower than the reasonable degree.

6. Dispute Resolution. The Parties shall first attempt to resolve any dispute arising out of or in connection with this Agreement through friendly negotiations. In case any such dispute fails to be resolved by the Parties through negotiations, the dispute may be submitted to the Permanent Arbitration at the Chamber of Commerce of Serbia.

7. Effectiveness of Agreement. This Agreement shall become effective after being signed by both Parties.

8. Language and copies. This Agreement is written in English in 4 (four) identical copies with each Party holding 2 (two) copies.

**China Railway Design Corporation
Serbia Ogranak**

Signature: _____
Name: Geng Xin
Title: General Manager
Date: _____



**Consortium of VS Infra Design Doo Beograd,
ENCODE doo Beograd and Beoexpert Design
doo Beograd**

Signature: _____
Name: Vidosav Stevanović
Title: Director
Date: 10.07.2020.



APPENDIX 6 - FORM OF PERFORMANCE SECURITY

PERFORMANCE SECURITY

(This must be finalized using the official letter head of the Issuing Bank. Except for indicated fields, no changes maybe made on this template)

Issuing Date:

1. To: China Railway Design Corporation Serbia Ogranak Beograd
[Insert contact information as provided in Data Sheet]

WHEREAS, ///, having its registered office at (hereinafter called 'the Consultant') has undertaken, in pursuance of the Contract No./// dated /// in respect of ///(the said Contract together with all the Annexures thereto is hereinafter called the 'Contract').

AND, WHEREAS it has been stipulated by you in the said Contract that the Consultant shall furnish you with a Performance Bank Guarantee by a recognized Bank for the sum of /// which is equivalent to %% (///) of the Contract Price as security for compliance with the Consultant's performance obligations in accordance with the Contract.

AND WHEREAS WE, ///, having our registered office at /// (hereinafter called the 'Guarantor') have agreed to give the Guarantee on behalf of the Contractor/Supplier:

THEREFORE, WE, hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor/Supplier, up to a total amount of /// (Say ///only), and WE undertake to pay you unconditionally and independently upon our receipt of your first written demand in original paper form declaring the Consultant fails to perform its obligations under the Contract and specifying in which respects the Consultant is in failure.

For the purpose of identification, any such demand in original should be presented to us through your Bank confirming that the signatures thereon are authentic and legally binding upon you.

This performance guarantee shall be valid from its issuance and constitute an engagement binding on us until the presentation to us of the copy of the /// (name of the Certificate concerned) or until // (mmdyy), whichever is earlier (the Expiry Date), and any demand in respect of this guarantee should reach us at our counter not later than the close of our Business hours on the above Expiry Date.

This performance guarantee is only personnel to you and is not assignable or transferable.

This performance guarantee is subject to the Uniform Rules for Demand Guarantees (ICC publication no.758) and to the extent not governed thereby, shall be governed by and construed in accordance with the laws of Serbia. Any disputes arising out of or in connection with this guarantee shall be submitted to the exclusive jurisdiction of Serbian courts.

SIGNATURE AND SEAL OF THE GUARANTOR BANK

Date

Name of Bank

Address

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